

# **Colorado Corrections in Crisis**

A severe staffing shortage and growing number of prison beds is pushing the Department of Corrections to the brink. To avert disaster, the state must take meaningful steps to manage the prison population and continue aggressive hiring efforts.

#### Executive Summary

The purpose of this report is to highlight the severe staffing shortage at the Colorado Department of Corrections (DOC), the implications of continuing to open additional prison beds, and amplify the voices of those most impacted by this crisis, namely DOC employees and inmates.

The sheer number and frequency of staff vacancies have reached the point at which:

- staff and inmate safety and wellbeing have been compromised;
- basic prison operations have been interrupted; and
- delivery of quality rehabilitative, medical/behavioral health treatment has been effectively disabled.

DOC has put significant effort into hiring, and the General Assembly has provided it with substantial and essential resources to offer better wages and recruitment and retention incentives, but an unsustainable level of vacancies persists. Employee turnover rates for correctional officers have increased, and the retention rate of new staff is barely over 50%.

To cope with the staffing crisis, DOC has:

- instituted mandatory overtime that raises significant concerns about staff members' physical and mental health, substance use, relationship stability, and safety;
- reassigned program and teaching staff to security duties; and
- lowered hiring and training standards.

Each of these strategies should be extremely alarming to policymakers. Yet the Governor's Office requested, and the General Assembly approved, opening another 400 prison beds as part of the FY2022-23 DOC supplemental bill (SB23-113). Additionally, the FY2023-24 Long Bill will include a \$1 billion-plus DOC budget that includes more than \$7.3 million to open 542 more state prison beds and 198 more private prison beds.<sup>1</sup>

With an unemployment rate below 3%,<sup>2</sup> competition from the private sector and higher-paying law enforcement agencies, and the DOC's unique hiring challenges, it is time for Colorado to face a harsh reality: There are simply not enough people in the available labor pool to fill approximately 1,600 DOC's staff vacancies.

The Colorado Criminal Justice Reform Coalition (CCJRC) believes it is dangerous and irresponsible for the General Assembly to continue expanding prison capacity. Meaningful steps must be taken to manage the prison population, while also providing adequate resources to maximize the DOC's hiring and retention potential.

Policymakers and criminal justice system practitioners must do more to ensure the prison population is managed to a level that aligns with realistic DOC staffing levels to ensure safety, effective operations, and delivery of quality programs to people in prison.

# **Staffing Crisis**

#### High staff vacancy levels

The DOC staff vacancy rate was 10% prior to the pandemic, and it is now reported to be around 25%, which amounts to roughly 1,600 vacant positions across all classifications.<sup>3</sup> The number of employment applications received by DOC dropped more than 51% during this period, from 1,762 to 852.



As demonstrated below, vacancies are particularly acute among correction officers and clinical staff.<sup>4</sup> Additionaly, DOC reported a 47% vacancy rate for physicians and crippling vacancy rates within the sex offender treatment program, including health professional II (58% vacancy), psychologist candidate (50%), psychologist I (50%), social worker/counselor I (50%), social worker/counselor III (68%), social worker/counselor IV (17%).<sup>5</sup>

"Inmate Baker, 73, was murdered in January 2023, and another died of a drug overdose. So many staff shortages!"

 Incarcerated Person, Sterling Correctional Facility

"I have talked to three different officers who are quitting because of the work. They did not receive the support they need to perform their jobs."

 Incarcerated Person, Fremont Correctional Facility

FTE VACANCIES BY SELECTED JOB CLASSES AS OF OCTOBER 26, 2022							
CLASS TITLE	TOTAL VACANCIES	TOTAL ALLOCATED POSITIONS	VACANCY RATE				
Correctional Officer I	682	2,397	28%				
Correctional Officer II	136	749	18%				
Correctional Officer III	47	341	14%				
Correctional Support Trades Supervisor I	134	555	24%				
Community Parole Officer	38	211	18%				
Health Professional II	65	132	49%				
Nurse I	72	176	41%				
Social Worker III	58	90	64%				
Subtotal for the Above Select Classes	1,232	4,651	26.5%				

#### Low retention rates and rising turnover rates

Despite DOC spending more than \$24 million this year on hiring and retention cash incentives<sup>6</sup>, only 54% of new hires completed the one-year probationary period as of December 2022.<sup>7</sup>



The turnover rate for correctional officers and correctional support trades supervisors has more than doubled from the FY2016-18, three-year average.<sup>8</sup>

"DOC is having a hard time keeping officers. Some are going to sheriff departments for better pay and conditions, and some have moved out of state for new jobs. Training time in the academy has been cut by more than 50%, and the hiring age has been dropped from 21 to 18. The new hires shadow disgruntled officers, and many leave in a matter of weeks."

 DOC Employee, Denver Complex

DOC	CTURNOVER HI	STORY SELE	CTED JOB CI	LASSES		
	FY 15-16 TO FY 17-18 (3-YEAR AVERAGE)			FY 2021-22		
Classification Title	Active Employees	Separated Employees	Turnover Rate	Active Employees	Separated Employees	Turnover Rate
Correctional Officer I	2,236	505	18.6%	1,773	688	38.8%
Correctional Officer II	720	76	8.9%	630	126	20.0%
Correctional Support Trade Supervisor I	494	63	11.2%	428	124	29.0%
DOC Total (all job classes)	6,096	1,030	14.9%	5,519.3	1,503	27.2%

There has also been substantial investment in raising pay for staff in DOC, which is demonstrated in the graph below.<sup>9</sup> The large increase in FY2019-20 includes \$27.3 million for a compensation-related decision item to increase base salaries for correctional officers.





The FY2023-24 Long Bill will include an additional \$31.8 million to increase DOC staff compensation,<sup>10</sup> \$35 million for overtime pay, over \$17 million for incentives and bonuses, including \$9 million for staff housing stipends at several facilities,<sup>11</sup> and \$8.5 million to provide non-base building compensation increases to correctional officers, correctional support trades supervisors, and health professionals.<sup>12</sup>

Despite these additional resources from the General Assembly, and despite DOC's significant efforts to hire new staff, the agency is still in crisis. It will continue to be as long as the state continues throwing money at the problem without expending equal effort to manage growth in the prison population.

#### Increased and mandated overtime

One of the primary strategies utilized by DOC to cope with the severe staffing shortage has been to mandate that staff, particularly correctional officers, work overtime. In the last two years, overtime per staff member has doubled<sup>13</sup> and as staffing decreases, overtime skyrockets.<sup>14</sup>

CCJRC was advised there were three car accidents in 2022 involving DOC employees following their shifts. Two were killed, and the third was paralyzed. In one of the fatal cases, a Colorado state trooper reported the DOC employee was "believed to have fallen asleep on his way home after working an overnight shift at the Limon Correctional Facility."<sup>15</sup> The employee's family attributed the accident to his long work hours and difficult schedule.





"We believe mandatory overtime is leading to fatal accidents in addition to other serious issues including physical and mental health, substance use, relationship stability and overall well-being."<sup>15</sup>

Hilary Glasgow,
 Executive Director,
 Colorado WINS

"If nobody volunteers [for overtime] it becomes mandatory at that point. Most of the time you are looking at a 16-hour shift. It's exhausting, it's very tiring, you don't get to see your family. You don't get to see your friends. It's basically eat sleep work, eat sleep work."<sup>15</sup>

Erik Justesen,
 Corrections Officer,
 San Carlos
 Correctional Facility

#### Reassigning non-correctional staff to correctional officer posts

Another strategy employed by DOC to cope with staffing shortages is mandating non-correctional employees, such as teachers and program staff, be reassigned to security duties.

"Teachers, case managers, and other staff are being "forced" to work as correctional officers."

- DOC Employee, Limon Correctional Facility

"Because of the dire shortage of officers (going on our fourth year) non-blue staff have been stepping in. I am a teacher, but I teach only one day a week and post the remaining days. There have been months that I didn't teach at all, as is the case in other prisons. Posting requires wearing a duty belt with a chain of keys, a radio, handcuffs, and pepper spray. I will NEVER handcuff or spray a human being, but I'm required to wear them. I do escorts, count, pat outs, cell searches, and strip searches. I feel these security duties strip me from my identity as teacher and career coach. I grieve for the work I love. I was told by a programs manager at Headquarters that there is no end in sight. Some teachers quit to find other jobs, and some have taken early retirement. I am now looking for a new job that actually matches my resume."

- DOC Employee, Denver Complex

#### Lowering standards for employment

In an attempt to address the staffing crisis, DOC has lowered hiring standards, including:

- reducing the minimum age from 21 to 18;<sup>16</sup>
- reducing drug testing;<sup>17</sup> and
- reducing time in the Basic Training Academy from 25 days to 14 days.<sup>18</sup>

"Lots of new staff from foreign countries and 18-year-olds working as staff. Big problems in communication!"

- Incarcerated Person, Buena Vista Correctional Facility

### **Inmate Programming Crisis**

Staffing vacancies and reassignment of program staff to security duties has had a debilitating impact on the DOC's ability to provide essential programming to inmates. The number of inmates participating in programs began to plummet as a result of the Covid-19 pandemic, and it remains far below pre-pandemic levels.<sup>19</sup>



"What they're doing is playing Russian roulette with our lives, and the offenders are not getting what they need to progress and be productive citizens and be able to function out here in the world because the teachers and everything else, they're not teaching."

- Carla Woods, DOC Employee<sup>20</sup>

"DOC has created a teacher shortage. DOC might get teachers in, but they don't stay. There is a blatant deception stated in the teacher job description: 'occasionally or in an emergent situation perform inmate counts, shakedowns, searches, escorts, movement control.' There is NOTHING occasional about it. Why would DOC want to open more beds when there's this kind of turmoil, chaos, and danger under the current conditions?"

- DOC Employee, Denver Complex

"I was denied parole because I did not take any parenting classes while incarcerated. There are not any parenting classes offered at DW." – Incarcerated Person, Denver Women's Correctional Facility

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"If DOC cannot give us treatment or jobs than they need to close down BVCF."

- Incarcerated Person, Buena Vista Correctional Facility

"I have not seen my case manager since last Nov. I sent many kites but no reply."

- Incarcerated Person, Buena Vista Correctional Facility

"They are now taking away visiting on Saturdays and Sundays and only doing it on Fridays. We are down to 46 staff here. They are also not running rec. They have told us Sept. 1<sup>st</sup> all programs are done. As of this upcoming week teachers, the 5 left, are to be security two days a week."

- Incarcerated Person, Buena Vista Correctional Facility

"The law library here has been closed for a year or more. It MAY open sometime in March 2023."

- Incarcerated Person, Sterling Correctional Facility

"Copies cost 10 cents, but we can't get any now if we have the funds? Why?"

Incarcerated Person, Sterling Correctional Facility

"Not applying for SNP (Special Needs Parole) any longer, as there are delays and many denials."

- Incarcerated Person, Limon Correctional Facility

"Most programs are on hold and many lockdowns. Staff shortages?"

- Incarcerated Person, Buena Vista Correctional Complex

"I was regressed from CAE in April 2022, they have sent me to three prisons (Crowley, Arkansas Valley, and now Sterling) that are short staffed with no mental health personnel so I'm not getting the treatment I need. It's one of the reasons I was denied parole. I was denied on 11/15/22 my case manager didn't put my parole plan in. Inadequate parole plan, no criminogenic needs met due to short staffing and no programs."

- Incarcerated Person, Sterling Correctional Facility

"I would like to share that due to short staffing here at Sterling there's no programs or library, no inside gymnasium being opened, no library, not routine dental care and I'm forced to work for 46 cents a day."

- Incarcerated Person, Sterling Correctional Facility

"[M]y son is sitting in Fremont waiting for classes that could help with his parole, problem is ..there are no teachers...so no classes. Therefore my son will be there for a long time just waiting for something...."

- Mother of Incarcerated Person in Fremont Correctional Facility

# **Inconsistent and Unreliable Information**

It would be irresponsible to expand prison capacity, due not only to the staffing crisis, but also the lack of consistent and reliable information from DOC.

Substantial questions linger because DOC has not provided consistent information on the number of additional beds they need, a source of great frustration. This was previously discussed by legislators when considering the FY2022-23 DOC Supplemental (SB23-113), so this report does not restate those concerns.

DOC has also been inconsistent as to whether it can hire the staff needed to open additional beds. For example, earlier this fiscal year, DOC took 100 beds offline at Sterling Correctional Facility due to "extreme staffing shortages and associated concerns for staff and inmate safety."<sup>21</sup> In late December 2022, Joint Budget Committee (JBC) staff asked DOC how long it would take to bring 400 minimum security beds online at Sterling Correctional Facility, including the 100 beds previously taken offline and 300 additional beds that were requested. On January 16, 2023, DOC responded, "Staffing shortages prevent the 400 beds at the Sterling Correctional Facility (SCF) from [becoming] operational. The Department must improve staffing to ensure the safety and security of staff and offenders at SCF before opening these beds." The very next day, the JBC received the Executive Branch's supplemental request for 613 additional male prison beds, including 300 beds at Sterling. JBC staff specifically asked about the inconsistency in whether DOC could staff these additional beds, to which DOC responded, "The department is working diligently to staff up the Sterling Complex and has focused on this facility as a must-have to accommodate the growing need for beds."<sup>22</sup> Ultimately, JBC staff did not recommend including funding for the 300 additional beds at Sterling.

Unfortunately, SB23-113 was approved and signed into law with funding to add almost 400 new prison beds without any realistic expectation that DOC would be able to provide adequate staffing to account for them. (Many of these beds had already been opened prior to legislative approval or appropriation.)

The FY2023-24 Long Bill will include \$7.3 million in new funding to add another 740 new male prison beds, including 198 in private prisons and 542 across several state prisons.<sup>24</sup> JBC staff did not recommend funding for additional FTEs for correctional officers and correctional support trades supervisors because "the data does not support a conclusion that the DOC has ever been fully staffed for these job classifications. At this point, staff concludes that an appropriation for additional correctional officers would more likely be used for overtime, bonuses, or contracted personal services." <sup>25</sup>

Opening 542 state prison beds via the FY2023-24 Long Bill, in addition to the 300 state prison beds opened through the DOC FY2022-23 supplemental, will only deepen the staffing crisis and lack of inmate programs.

JBC staff also outlined multiple instances where DOC changed the methodology by which it calculates the prison population or prison bed vacancies to artificially inflate the need for more prison beds, including:

- In its prison population forecast, DOC included people under its jurisdiction who are in community corrections or ISP-I supervision, even though these individuals do not occupy or need a DOC prison bed.<sup>26</sup>
- DOC removed 495 Residential Treatment Program (RTP) beds from the total number of available male prison beds, which was a deviation from DOC's past practice,<sup>27</sup> but included the hundreds of inmates in RTP beds in the prison population.
- The Office of State Planning and Budget (OSPB) comeback stated that additional prison capacity was needed due to the backlog of people sentenced to prison who were still in jail awaiting transfer to DOC (known as "jail backlog"). JBC staff rejected that argument because jail backlog was consistent with recent and historical data. Even more alarming, it stated that DOC slowed intake of jail backlog in January to keep the prison vacancy rate above 3% to avoid triggering the prison population management measures, despite having more than 100 empty beds at the DOC intake facility.<sup>28</sup>

### Why the Vacancy Rate Matters

In 2018, HB18-1410 enacted C.R.S. 17-1-119.7, which outlined prison population management measures (PPMM) that would be triggered by a very low prison vacancy rate to help mitigate the need for DOC to open more prison beds, use sled-beds, or double-bunk. It was introduced with bipartisan sponsors and was passed with unanimous votes in both the House and Senate.

Specifically, when the DOC prison bed vacancy rate falls below 3% for 30 consecutive days, the PPMM requires the following proactive actions:

- DOC must provide notice of the low vacancy rate to the Governor, Joint Budget Committee, the Parole Board, each elected District Attorney, the Chief Judge of each Judicial District, the State Public Defender, and the Office of Community Corrections in the Department of Public Safety.
- The Office of Community Corrections must provide DOC a list of vacant and open beds within Community Corrections programs across the state.
- DOC requests that the Parole Board review a list of inmates who are within 90 days of their mandatory release date (MRD), do not require full board review or victim notification pursuant to section 24-4.1-302.5 (1)(j), and meet other eligibility requirements.
- DOC coordinates with the Parole Board to review the list of inmates who have been approved for conditional release who do not require full board review or victim notification pursuant to section 24-4.1-302.5 (1)(j), and meet other eligibility requirements.
- DOC submits a list of eligible inmates with a favorable parole plan who are assessed as medium or lowrisk and the Parole Board must conduct a file review within 30 days if there is no victim notification required or hold a hearing within 30 days after giving victim notification if a victim would like to provide input at the hearing. An inmate is not eligible for release pursuant to this section if he or she is serving a sentence for an offense enumerated in section 24-4.1-302 or section 16-22-102 (9) or has had a class I code of penal discipline violation within the previous twelve months from the date of the list or since incarceration, whichever is shorter; has been terminated for lack of progress or declined in writing to participate in programs that have been recommended and made available to the inmate within the previous twelve months or since incarceration, whichever is shorter; has been regressed from community corrections or revoked from parole within the previous one hundred eighty days; or has a pending felony charge, detainer, or an extraditable warrant.

Once the vacancy rate is above the 4% threshold, the PPMM is no longer in effect and DOC is required to provide termination notice to the same parties. There is nothing in PPMM that mandates that people be released or interferes with the Parole Board or Community Corrections Board or programs' discretion and authority.

When the DOC/OSPB change or manipulate the methodology for calculating the vacancy rate to stay above 3%, they are removing a tool the General Assembly unanimously approved for the purpose of addressing a low vacancy rate through population management, not just increasing the number of prison beds or double-bunking.

Legislative Council Staff's prison population projections indicate growth over the next fiscal year.<sup>29</sup> But the actual average growth in DOC is 56 people per month, which is lower than projected.<sup>30</sup> At the end of February 2023, DOC had 690 vacant beds.<sup>31</sup> This is exactly the scenario where it was intended for the PPMM to be activated, particularly since parole releases are down substantially.<sup>32</sup> Although, it is reasonable that releases would be down in relation to the increases during COVID, current parole releases are lower than pre-COVID levels.<sup>33</sup>

Mandatory vs. Discretionary Parole



### **Conclusion and Recommendations**

The status quo is no way to treat state employees and inmates or operate the DOC. Just throwing money at the problem will not make it go away, and simply warehousing people in prisons does not promote rehabilitation and public safety. To resolve the DOC's staffing crisis, policymakers and the Governor must take meaningful steps to manage the prison population, as well as continue aggressive hiring and retention efforts that do not lower hiring and training standards.

While the intention of the PPMM is still extremely relevant, CCJRC recommends it be strengthened by:

- Including a specific formula by which the DOC calculates the prison population and prison bed vacancy rate to enhance accuracy and reliability.
- Increasing the triggering vacancy rate above 3% because that is the lowest vacancy rate wherein the DOC can make sure inmates are assigned to the appropriate security level prison. It can take months for the PPMM to ramp up and have any potential impact, so it triggers action too late to address the crisis.
- The PPMM should also include a trigger that corresponds to a specific level of staff vacancy, not just the prison bed vacancy rate.
- During this staffing crisis, DOC should also be required to prepare a monthly report that is publicly available and identifies, by each facility, the funded staff by job classification, number of vacancies by job classification, vacancy rate by job classification, and inmate program schedule.

### Endnotes

- <sup>1</sup> Joint Budget Committee, <u>Staff Figure Setting FY2023-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 15.
  <sup>2</sup> Colorado Legislative Council Staff, <u>March 2023 Economic & Revenue Forecast</u>, Presentation to the Joint Budget Committee, March 16, 2023, page 5.
- <sup>3</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 6.
- <sup>4</sup> Joint Budget Committee, <u>Staff Budget Briefing FY2023-24</u>, <u>Department of Corrections</u>, December 5, 2022, page 30.
- <sup>5</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 17.
  <sup>6</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 7.
- <sup>7</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 6.
- <sup>8</sup> Joint Budget Committee, <u>Staff Budget Briefing FY2023-24</u>, <u>Department of Corrections</u>, December, 5, 2022, page 29.
- <sup>9</sup> Joint Budget Committee, <u>Staff Budget Briefing FY2023-24</u>, <u>Department of Corrections</u>, December 5, 2022, page 9.
- <sup>10</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 2.
- <sup>11</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 6.
- <sup>12</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 3.
- <sup>13</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 10.
- <sup>14</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 9.
- <sup>15</sup> Beedie, Dan. <u>13 Investigates: Corrections officer dies after falling asleep behind the wheel; Family says work schedule was factor in crash,</u>
- KRDO News Channel 13, November 18, 2022, Newsbreak webpage, last reviewed March 2023.
- <sup>16</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 13.
- <sup>17</sup> Department of Corrections, <u>SMART Act Hearing Presentation</u>, Joint Judiciary Committee, January 18, 2023, slide 13.
- <sup>18</sup> Colorado Department of Corrections, <u>CDOC Basic Training Academy FAQ</u>, webpage, last reviewed March 18, 2023.
- <sup>19</sup> Colorado Department of Corrections, General Statistics, Dashboard Measures, webpage, last reviewed March 15, 2023.
- <sup>20</sup> Toomer, Lindsey, Low staffing at prisons in Colorado leads to unsustainable working conditions, Colorado Newsline, January 3, 2023, webpage, last reviewed March 2023.
- <sup>21</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, Department of Corrections, February 21, 2023, page 20.
- <sup>22</sup> Joint Budget Committee, Staff Figure Setting FY23-24, Department of Corrections, February 21, 2023, page 20.
- <sup>23</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, <u>Department of Corrections</u>, February 21, 2023, page 20.
- <sup>24</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24</u>, Department of Corrections, February 21, 2023, page 15.
- <sup>25</sup> Joint Budget Committee, Staff Figure Setting FY23-24, Department of Corrections, February 21, 2023, page 16.
- <sup>26</sup> Joint Budget Committee, Staff Figure Setting FY23-24, Department of Corrections, February 21, 2023, page 19.
- <sup>27</sup> Joint Budget Committee, Staff Figure Setting FY23-24, Department of Corrections, February 21, 2023, page 20.
- <sup>28</sup> Joint Budget Committee, <u>Staff Figure Setting FY23-24, Department of Corrections</u>, February 21, 2023, page 21.
- <sup>29</sup> Colorado Legislative Council Staff, December 2022 Economic & Revenue Forecast, Presentation to the Joint Budget Committee, December 20, 2022.
- <sup>30</sup> Colorado Department of Corrections, <u>Monthly Population and Capacity Reports</u>, February 2023, webpage, last reviewed March 17, 2023.
- <sup>31</sup> Colorado Department of Corrections, Monthly Population and Capacity Reports, February 2023, webpage, last reviewed March 17, 2023.
- <sup>32</sup> Joint Budget Committee, <u>Staff Budget Briefing FY2023-24</u>, Department of Corrections, December 5, 2022, page 8.
- <sup>33</sup> Colorado Department of Corrections, Monthly Population and Capacity Reports, February 2023, webpage, last reviewed March 17, 2023.



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